

Remarks

Claims 1-25 were previously pending and stood rejected under 35 USC 103(a). Claims 12, 16 and 17 have been canceled and claims 26 and 27 have been added. Claims 1, 2, 11, 13, 18, 20, and 21 have been amended. Applicants assert that the currently pending claims are now in condition for allowance as set forth more fully below.

Telephone Interview

The undersigned and the Examiner participated in a telephone interview on July 19, 2004. It was discussed how the cited references failed to disclose a user having the ability to select a particular option for controlling the speaker volume based on ambient noise. Further, it was discussed how the cited references failed to disclose a user having the ability to turn the speaker volume control on and off independently from powering on and off the communications device. Additionally, it was discussed how the cited references failed to teach resetting the speaker volume to an initial setting once a call has been completed and prior to establishing a subsequent call. It was agreed that an amendment to the claims to include these features would be filed.

103 Rejections

Previously pending claims 1-5, 7-9, 18, 19, and 21-24 stood rejected under 35 USC 103(a) as being unpatentable over Alperovich (US Pat 6,298,247) in view of Yamashita (US Pat 5,615,256). Additionally, claim 6 was rejected as being unpatentable over Alperovich in view of Yamashita and well known prior art, while claims 11-15 were rejected as being unpatentable over Alperovich in view of well known prior art. Claims 10, 16, and 25 were rejected as being unpatentable over Alperovich in view of Kanai (US Pat 6,233,462). Claims 17 and 20 were not specifically addressed, but the Examiner noted during the interview that the intent was to reject these claims under the rationale of claim 10 for claim 17, and by inherency of Alperovich for claim 20. Applicants respectfully traverse these rejections to the extent they apply to the current set of pending claims.

Claims 26, 27, and 1-10

The Office Action rejected previously pending claim 1 by stating that Alperovich disclosed all of the elements except determining whether the ambient noise level exceeded a threshold. However, the Office Action stated that Yamashita disclosed, in the same field of endeavor, determining whether a threshold is exceeded.

This rejection is moot in view of the amendment to claim 1 that causes it to depend from a new claim 26. New claim 26 recites providing to a user of the communications device at least two different options for controlling the speaker volume based on ambient noise, receiving a selection of one of the at least two different options from the user, and implementing a volume control action that is based on the ambient noise and that corresponds to the option selected by the user to thereby control the speaker volume based on the ambient noise. Thus, a user gets to choose how the speaker volume will be controlled. FIGS. 3A and 3B and the related discussion clearly provide support for this new claim, as well as new claim 27.

The cited references do not appear to disclose providing the user with such a choice. Instead, it appears that they teach a single process which is always in use to control the speaker volume. While Alperovich discloses multiple ranges of noise, and the corresponding volume level set by the user, these multiple ranges and corresponding volume levels are used within a single and only process of controlling the volume level. The user is not given the opportunity to opt for using one process that implements the ranges versus using some other process that may or may not use the ranges. Accordingly, claim 26 is patentable over the cited references, individually and in combination.

Dependent claims 27 and 1-10 depend from an allowable claim 26 and are also allowable for at least the same reasons.

Claims 11 and 13-15

The Office Action states that Alperovich discloses all of the elements of claim 11 except the substantially zero ambient noise. However, the Examiner has taken official notice that providing zero ambient noise is well known in the art.

Amended claim 11 recites, among other things, selecting an initial volume level for the speaker in the presence of substantially zero ambient noise and resetting the

volume to the initial volume level upon a call ending and before the establishment of a subsequent call. Thus, each new call will begin with the speaker volume set to the initial volume level that is set for the presence of substantially zero ambient noise, which prevents the speaker volume from being set to an uncomfortably high level at the beginning of a call.

None of the cited references disclose this feature of resetting the volume to the initial level once the call has ended and prior to the next call being established. In relation to claim 10, which recites that the volume is reset to an initial volume, the Office Action cited to Kanai and specifically to figure 5. This figure and related discussion provides that the volume is adjusted during a call but is not changed from the final level at the end of the call until after the next call has been established. This is evident from figure 5 showing that the process goes from the call ending at S107/S114 back to sampling ambient noise at S102 for the next call prior to readjusting the volume level at S106/S113. Thus, there is the potential for the volume to be improperly set for the immediate beginning of the next call. Accordingly, claim 11 is allowable over the cited combination of references.

Dependent claims 13-15 depend from an allowable claim 11 and are also allowable for at least the same reasons.

Claims 18-25

The Office Action states that Alperovich also discloses all of the elements of claim 18 except for the means for adjusting determining whether the ambient noise level is greater than a threshold level. However, the Office Action further states that Yamashita, in the same field of endeavor, does disclose a comparison to a threshold level.

As amended, claim 18 recites, among other things, that there is means for receiving user input to activate and deactivate the means for adjusting independently of powering on and off the mobile communications device. Thus, the user is given the ability to turn the speaker volume control on and off independently of turning the communications device on and off. This gives the user the ability to turn the volume control on and off during idle times between calls or even during a call in progress.

None of the cited references disclose these features. In relation to previously pending claims 20 and 21 which recited that there was a means for enabling the volume control, the Office Action cited to the inherent enabling and disabling of volume control by powering on and off the communications devices of the cited references. However, none of the cited references disclose a means for receiving user input to activate and deactivate the means for adjusting that is independent of powering on and off the communications device. Accordingly, the user of the devices disclosed by these references cannot turn the volume control on and off during idle times between calls and during in progress calls. Therefore, claim 18 is allowable over the cited combination of references.

Dependent claims 19-25 depend from an allowable claim 18 and are also allowable for at least the same reasons.

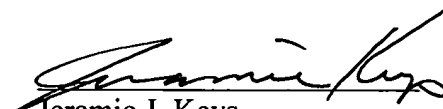
Conclusion

Applicants assert that the application including claims 1-11, 13-15, and 18-27 is now in condition for allowance. Applicants request reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: July 21, 2004


Jeramie J. Keys
Reg. No. 42,724

Withers & Keys, LLC
P.O. Box 71355
Marietta, Ga 30007-1355
(404) 849.2093